

**ASSEMBLY, No. 384**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman EDWARD H. THOMSON**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

Makes revisions to the “Contractors’ Registration Act.”

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning regulation of home improvement contractors  
2 and amending and supplementing P.L.2004, c.16.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 2 of P.L.2004, c.16 (C.56:8-137) is amended to read  
8 as follows:

9 2. As used in this act:

10 "Common interest community" means real estate, including, but  
11 not limited to, condominiums and cooperatives, with respect to  
12 which a person, by virtue of his ownership of a unit, is obligated to  
13 pay for real estate taxes, insurance premiums, maintenance, or  
14 improvement of other real estate described in the declaration.  
15 Ownership of a unit does not include holding a leasehold interest of  
16 less than 20 years in a unit, including renewal options.

17 "Contractor" means a person engaged in the business of making  
18 or selling home improvements and includes a corporation,  
19 partnership, association and any other form of business organization  
20 or entity, and its officers, representatives, agents and employees. A  
21 person who makes a home improvement without compensation shall  
22 not be deemed to be a contractor with respect to that home  
23 improvement.

24 "Director" means the Director of the Division of Consumer  
25 Affairs in the Department of Law and Public Safety.

26 "Division" means the Division of Consumer Affairs in the  
27 Department of Law and Public Safety.

28 "Full-time student" means an individual who was matriculated as  
29 a full-time student in a high school or an accredited college,  
30 technical school, or university for the immediately preceding  
31 academic semester and who will also be enrolled as a full-time  
32 student for the next academic semester, in the same or a similar  
33 school or accredited college, technical school, or university.

34 "Home improvement" means the remodeling, altering,  
35 renovating, repairing, restoring, modernizing, moving, demolishing,  
36 installing in, or otherwise improving or modifying of the whole or  
37 any part of any residential **【or non-commercial】** property. Home  
38 improvement shall also include insulation installation **【,** and the  
39 conversion of existing commercial structures into residential or  
40 non-commercial property**】**.

41 "Home improvement contract" means an oral or written  
42 agreement for the performance of a home improvement between a  
43 contractor and an owner, tenant or lessee, of a residential **【or**  
44 **noncommercial】** property, and includes all agreements under which  
45 the contractor is to perform labor or render services for home  
46 improvements, or furnish materials in connection therewith.

**EXPLANATION** – Matter enclosed in bold-faced brackets **【thus】** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Residential **【or non-commercial】** property" means any occupied  
2 or previously occupied single-unit or owner-occupied multi-unit  
3 structure of not more than six units used in whole or in part as a  
4 place of residence, and all structures appurtenant thereto, and any  
5 portion of the lot or site on which the structure is situated which is  
6 devoted to the residential use of the structure. Residential property  
7 includes an owner-occupied single dwelling unit within a multi-unit  
8 common interest community.

9 "Responsible supervisor" means the individual designated by an  
10 applicant or registered contractor to be in charge at the contractor's  
11 job sites as required by subsection g. of section 6 of P.L.2004, c.16  
12 (C.56:8-141).

13 "Substantial interest" means an interest as director, officer or  
14 partner or an economic interest of 10 percent or more in a home  
15 improvement contractor or any parent, subsidiary, or affiliate  
16 thereof.

17 (cf: P.L.2004, c.16, s.2)

18  
19 2. Section 3 of P.L.2004, c.16 (C.56:8-138) is amended to read  
20 as follows:

21 3. a. **【On or after December 31, 2005, no】** No person shall  
22 offer to perform, or engage, or attempt to engage in the business of  
23 making or selling home improvements unless registered with the  
24 Division of Consumer Affairs in accordance with the provisions of  
25 this act.

26 b. Every contractor shall **【annually】** register with the director  
27 every two years. Prior to the end of each renewal period, the  
28 director shall send out renewal notices to all registered contractors.  
29 Registrants shall submit a completed renewal form and the renewal  
30 fee established by the director by regulation. A registration shall  
31 expire on the last day of the second year of the biennial registration  
32 period unless renewed. Application for registration shall be through  
33 an online registration process established by the division or on a  
34 form provided by the division , and shall be accompanied by a  
35 reasonable fee, set by the director in an amount sufficient to defray  
36 the division's expenses incurred in administering and enforcing this  
37 act.

38 c. Every contractor required to register under this act shall file  
39 an amended registration within 20 days after any change in the  
40 information required to be included thereon. No fee shall be  
41 required for the filing of an amendment.

42 d. Contractors not otherwise exempt under section 5 of  
43 P.L.2004, c.16 (C.56:8-140) who enter into a home improvement  
44 contract or contracts with any consumer in a registration period that  
45 obligates the consumer to pay, in the aggregate, an amount less than  
46 \$500 in a registration period, or such other amount as the director

1 may determine by regulation, shall be subject to the registration  
2 requirements of P.L.2004, c.16 (C.56:8-136 et seq.), but shall not be  
3 subject to the bonding requirements of section 7 of P.L.2004, c.16  
4 (C.56:8-142). Those contractors shall be required to maintain a  
5 minimum amount of commercial general liability insurance that  
6 shall be set by the director by regulation and may be less than  
7 \$500,000 per occurrence. The contract prices for contracts entered  
8 into by a contractor with a consumer for related, connected, or  
9 contemporaneous work shall be aggregated.

10 (cf: P.L.2004, c.155, s.1)

11  
12 3. Section 5 of P.L.2004, c.16 (C.56:8-140) is amended to read  
13 as follows:

14 5. The provisions of **【this act】** sections 3 (C.56:8-138), 4  
15 (C.56:8-139), 6 through 9 (C.56:8-141-144), and paragraphs (2) and  
16 (3) of subsection a. of section 16 (C.56:8-151) of P.L.2004, c.16  
17 regarding registration, insurance, and bonding as a home  
18 improvement contractor shall not apply to:

19 a. Any person **【required to register pursuant to】** registered  
20 under "The New Home Warranty and Builders' Registration Act,"  
21 P.L.1977, c.467 (C.46:3B-1 et seq.), but only in connection with the  
22 building of a new home as defined in section 2 of P.L.1977, c.467  
23 (C.46:3B-2);

24 b. **【Any person performing a home improvement upon a**  
25 **residential or non-commercial property he owns, or that is owned**  
26 **by a member of his family, a bona fide charity, or other non-profit**  
27 **organization】** (Deleted by amendment, P.L. , c. ) (pending  
28 before the Legislature as this bill);

29 c. Any person regulated by the State as an architect,  
30 professional engineer, landscape architect, land surveyor, electrical  
31 contractor, master plumber, HVACR contractor, or any other person  
32 in any other related profession requiring registration, certification,  
33 or licensure by the State, who is acting within the scope of practice  
34 of his profession;

35 d. Any person who is employed by a **【community association**  
36 **or cooperative corporation】** common interest community, while  
37 such person is acting within the scope of that employment;

38 e. Any public utility as defined under R.S.48:2-13;

39 f. Any person licensed under the provisions of section 16 of  
40 P.L.1960, c.41 (C.17:16C-77), who is selling a home repair contract  
41 as defined in section 1 of P.L.1960, c.41 (C.17:16C-62) but is not  
42 performing the work; 【and】

43 g. Any home improvement retailer with a net worth of more  
44 than \$50,000,000, or employee of that retailer; and

45 h. Any contractor who is a full-time student, making or selling  
46 home improvements, provided that all of the employees of the

1 contractor are also full-time students and that the contractor does  
2 not reasonably expect to earn and does not in fact earn more than  
3 \$10,000 in annual net income as a contractor.

4 Any person exempted from the insurance or bonding  
5 requirements or the registration requirements of P.L.2004, c.16  
6 (C.56:8-136 et seq.) shall disclose in the home improvement  
7 contract the requirements of that act from which the person is  
8 exempt and to which the home improvement will not be subject.  
9 The disclosure shall comply in form and substance with  
10 requirements established by the director by regulation. Any person  
11 exempted from the insurance or bonding or registration  
12 requirements of this act shall be subject to all other requirements of  
13 this act.

14 (cf: P.L.2004, c.16, s.5)

15  
16 4. Section 6 of P.L.2004, c.16 (C.56:8-141) is amended to read  
17 as follows:

18 6. In addition to any other procedure, condition or information  
19 required by this act:

20 a. Every applicant shall file a disclosure statement with the  
21 director stating whether the applicant or any person with a  
22 substantial interest in the applicant has been convicted of any crime,  
23 which for the purposes of this act shall mean a violation of any of  
24 the following provisions of the "New Jersey Code of Criminal  
25 Justice," Title 2C of the New Jersey Statutes, or the equivalent  
26 under the laws of any other jurisdiction:

27 (1) Any crime of the first degree;

28 (2) Any crime which is a second or third degree crime and is a  
29 violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes;  
30 or

31 (3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-  
32 2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, section 1  
33 of P.L.1993, c.291 (C.2C:13-6), section 1 of P.L.2005, c.1 (2C:13-  
34 7), 2C:14-2, 2C:14-3, 2C:15-1, subsection a. or b. of 2C:17-1,  
35 subsection a. or b. of 2C:17-2, 2C:17-3, 2C:18-2, 2C:20-4, 2C:20-5,  
36 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7,  
37 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, 2C:24-4, 2C:24-7,  
38 section 1 of P.L.1989, c.23 (C.2C:24-8), section 1 of P.L.1998,  
39 c.102 (C.2C:24-9), chapter 27 or 28 of Title 2C of the New Jersey  
40 Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1  
41 through 2C:37-4, or any other crime for which the person is  
42 required to register as a sex offender pursuant to P.L.1994, c.133  
43 (C.2C:7-1 et seq.) or the equivalent under the laws of any other  
44 jurisdiction or for which the person is sentenced to parole  
45 supervision for life.

46 The disclosure statement filed with the director shall state  
47 whether any employee of the applicant who has been designated as

1 its responsible supervisor has been convicted of a crime in violation  
2 of any of the following provisions of the “New Jersey Code of  
3 Criminal Justice,” Title 2C of the New Jersey Statutes, or the  
4 equivalent laws of any other jurisdiction: N.J.S.2C:5-1, 2C:5-2,  
5 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, section 1 of  
6 P.L.1993, c.291 (C.2C:13-6), 2C:14-2, 2C:15-1, subsection a. or b.  
7 of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:24-4,  
8 2C:35-5, or 2C:35-10, or any other crime for which the person is  
9 required to register as a sex offender pursuant to P.L.1994, c.133  
10 (C.2C:7-1 et seq.) or the equivalent under the laws of any other  
11 jurisdiction or for which the person is sentenced to parole  
12 supervision for life.

13 b. The director may refuse to issue or may suspend or revoke  
14 any registration issued by him upon proof that the applicant or  
15 holder of the registration or a person with a substantial interest in  
16 the applicant or holder:

17 (1) Has obtained a registration through fraud, deception or  
18 misrepresentation;

19 (2) Has engaged in the use or employment of dishonesty, fraud,  
20 deception, misrepresentation, false promise or false pretense;

21 (3) Has engaged in gross negligence, gross malpractice or gross  
22 incompetence;

23 (4) Has engaged in repeated acts of negligence, malpractice or  
24 incompetence;

25 (5) Has engaged in professional or occupational misconduct as  
26 may be determined by the director;

27 (6) Has been convicted of any crime **【involving moral**  
28 **turpitude】** enumerated in subsection a. of this section or any other  
29 crime relating adversely to the activity regulated by this act. For  
30 the purpose of this subsection a plea of guilty, non vult, nolo  
31 contendere or any other such disposition of alleged criminal activity  
32 shall be deemed a conviction;

33 (7) Has had his authority to engage in the activity regulated by  
34 the director revoked or suspended by any other state, agency or  
35 authority for reasons consistent with this section; or

36 (8) **【Has】** Other than traffic violations, has violated or failed to  
37 comply with the provisions of any act or regulation administered ,  
38 or any order issued, by the director or by any other State agency or  
39 the equivalent provisions of any act, regulation, or order under the  
40 laws of any other jurisdiction;

41 (9) **【Is** incapable, for medical or any other good cause, of  
42 discharging the functions of a licensee in a manner consistent with  
43 the public's health, safety and welfare】 (Deleted by amendment,  
44 P.L. , c. ) (pending before the Legislature as this bill).

45 c. **【An** applicant whose registration is denied, suspended, or  
46 revoked pursuant to this section shall, upon a written request

1 transmitted to the director within 30 calendar days of that action, be  
2 afforded an opportunity for a hearing in a manner provided for  
3 contested cases pursuant to the "Administrative Procedure Act,"  
4 P.L.1968, c.410 (C.52:14B-1 et seq.)】

5 (1) The director may refuse to issue or may revoke any  
6 registration issued by him upon proof that:

7 (a) the applicant;

8 (b) the holder of the registration; or

9 (c) a person with a substantial interest in the application or  
10 holder;

11 held a substantial interest in any other home improvement  
12 contractor at the time that the other home improvement contractor  
13 was disqualified or was subject to disqualification from registration  
14 under paragraphs (1) through (8) of subsection b. of this section.

15 (2) The director may refuse to issue or may suspend or revoke  
16 any registration issued by him upon proof that the contractor's  
17 responsible supervisor has been convicted of any crime for which  
18 disclosure is required for responsible supervisors pursuant to  
19 subsection a. of this section, provided that no applicant or registered  
20 contractor shall be disqualified from registration or shall have its  
21 registration revoked for failure to disclose any responsible  
22 supervisor's conviction if the applicant or holder of a registration  
23 affirmatively demonstrates to the director clear and convincing  
24 evidence of the responsible supervisor's rehabilitation in  
25 consideration of the factors set out in subsection f. of this section.

26 d. An applicant shall have the continuing duty to provide any  
27 assistance or information requested by the director, and to cooperate  
28 in any inquiry, investigation, or hearing conducted by the director.

29 e. If any of the information required to be included in the  
30 disclosure statement changes, or if additional information should be  
31 added after the filing of the statement, the applicant shall provide  
32 that information to the director, in writing, within 30 calendar days  
33 of the change or addition.

34 f. Notwithstanding the provisions of **【paragraph (6) of】**  
35 **subsection b. of this section, no 【individual】 applicant or holder of**  
36 **a registration** shall be disqualified from registration or shall have  
37 registration revoked on the basis of any conviction disclosed if the  
38 individual with the disqualifying conviction has affirmatively  
39 demonstrated to the director clear and convincing evidence of the  
40 individual's rehabilitation. In determining whether an individual  
41 has affirmatively demonstrated rehabilitation, the following factors  
42 shall be considered:

43 (1) The nature and responsibility of the position which the  
44 convicted individual would hold;

45 (2) The nature and seriousness of the offense;

46 (3) The circumstances under which the offense occurred;

- 1 (4) The date of the offense;  
2 (5) The age of the individual when the offense was committed;  
3 (6) Whether the offense was an isolated or repeated incident;  
4 (7) Any social conditions which may have contributed to the  
5 offense; and

6 (8) Any evidence of rehabilitation, including good conduct in  
7 prison or in the community, counseling or psychiatric treatment  
8 received, acquisition of additional academic or vocational  
9 schooling, successful participation in correctional work-release  
10 programs, or the recommendation of persons who have had the  
11 individual under their supervision.

12 g. Every applicant and every registered contractor shall  
13 designate and maintain a responsible supervisor who may, but need  
14 not, be a person with a substantial interest in the applicant or  
15 contractor, and shall file with the director the name, residence,  
16 address, and telephone number of the responsible supervisor. The  
17 responsible supervisor shall be in charge at the contractor's job sites  
18 and shall ensure that the work and any employees comply with  
19 applicable laws and regulations.

20 (cf: P.L.2004, c.16, s.6)

21

22 5. Section 7 of P.L.2004, c.16 (C.56:8-142) is amended to read  
23 as follows:

24 7. a. **【On or after December 31, 2005, every】** Every registered  
25 contractor who is engaged in home improvements shall secure **【,】**  
26 and maintain, and file with the director **【proof of a certificate】**  
27 evidence of commercial general liability insurance in a minimum  
28 amount of \$500,000 per occurrence, issued by an insurance carrier  
29 authorized by the Commissioner of Banking and Insurance to  
30 conduct business in this State, and file with the director a certificate  
31 issued by the insurance carrier or its agent evidencing that such  
32 insurance is in full force and effect.

33 b. (1) An insurance carrier that has issued a commercial  
34 general liability insurance policy to a contractor for the purpose of  
35 complying with this act shall give notice to the director, by regular  
36 United States mail, electronic mail, or facsimile transmission, of its  
37 intention to cancel or not renew that policy at least 10 business days  
38 prior to cancellation or non-renewal.

39 (2) Every registered contractor engaged in home improvements  
40 whose commercial general liability insurance policy is cancelled or  
41 **【nonrenewed】** not renewed shall submit to the director a copy of  
42 the certificate of commercial general liability insurance for a new or  
43 replacement policy which meets the requirements of subsection a.  
44 of this section before the former policy is no longer effective.

45 c. Every registered contractor who is engaged in home  
46 improvement shall maintain in effect during the entire period of the



1 registration a bond, in the form prescribed by the director, issued by  
2 one or more sureties authorized to transact business in this State.

3 d. The penal sum of the bond for an applicant who is applying  
4 for a registration or renewal of a registration shall be \$25,000 or  
5 such other amount as the director may determine by regulation.

6 e. The contractor shall, from time to time, to the extent that  
7 claims are paid, promptly replenish the bond maintained with the  
8 director to the amount required under subsection d. of this section  
9 or obtain a new bond that meets the requirements of subsection d. of  
10 this section. The director may suspend a contractor's registration  
11 until the contractor provides the director with valid proof that the  
12 bond has been replenished or a new bond has been obtained. As a  
13 condition of ending the suspension, the director may require a  
14 contractor requesting reinstatement to file a bond in a penal sum up  
15 to two times the amount specified in subsection d. of this section, in  
16 accordance with regulations to be adopted by the director.

17 f. The bond required under this section shall be filed or  
18 deposited with the director and shall be executed to the State of  
19 New Jersey for the benefit of consumers as provided in subsections  
20 g. and k. of this section.

21 g. A consumer may claim against the bond for actual losses  
22 incurred by the consumer as a result of conduct by a registered  
23 contractor in violation of P.L.1960, c.39 (C.56:8-1 et seq.)  
24 occurring during the term of the bond.

25 h. The bond shall not be payable for treble damages in claims  
26 brought under P.L.1960, c.39 (C.56:8-1 et seq.).

27 i. A consumer making a claim against a bond required under  
28 this section shall simultaneously notify the surety and the director  
29 of the amount and nature of the claim.

30 j. If a consumer's claim is not resolved by the contractor or the  
31 surety within 60 days after the consumer notifies the surety and the  
32 director of the consumer's claim, the consumer may bring a suit or  
33 action on the bond against the surety in any State court having  
34 jurisdiction. A suit or action against the surety shall be brought by  
35 the consumer within two years after the expiration of the  
36 registration period during which the conduct giving rise to the claim  
37 occurred.

38 k. A bond required under this section shall respond to a claim  
39 made by the director for any amounts awarded to a consumer in a  
40 binding arbitration proceeding conducted pursuant to a consent  
41 judgment or consent order obtained by the director arising out of  
42 conduct of the contractor in violation of P.L.1960, c.39 (C.56:8-  
43 1 et seq.) occurring during the term of the bond, and not paid by the  
44 contractor. The director shall notify the surety of the consent order  
45 or consent judgment entered against the contractor.

1     l. The aggregate liability of the surety for all breaches of the  
2     conditions of the bond required under this section shall not exceed  
3     the amount of the bond.

4     m. Where there is more than one claim pending against a  
5     contractor in an aggregate amount equal to 50 percent or more of  
6     the amount required by subsection d. of section 7 of P.L.2004, c.16  
7     (C.56:8-142), the surety shall notify the director and shall not pay  
8     any amount under the bond without authorization from the director.  
9     If the director determines that there is a substantial likelihood that  
10    the aggregate amount of claims against a bond will exceed the face  
11    amount of the bond, the director may apportion the proceeds of the  
12    bond among the claimants in an equitable manner. The director may  
13    suspend a contractor's registration until any judgment or admitted or  
14    proven claim in excess of the amount of the bond is satisfied.

15    n. Every bond required under this section shall provide that  
16    cancellation or nonrenewal of the bond shall not be effective unless  
17    and until at least 30 days' notice of intention to cancel or not renew  
18    has been received in writing by the director from the issuer.

19    (cf: P.L.2004, c.155, s.3)

20  
21    6. Section 11 of P.L.2004, c.16 (C.56:8-146) is amended to  
22    read as follows:

23    11. a. It is an unlawful practice and a violation of P.L.1960,  
24    c.39 (C.56:8-1 et seq.) **【to violate any provision of this act】** for a  
25    contractor, including a contractor exempt from the registration  
26    requirements under section 5 of P.L.2004, c.16 (C.56:8-140), to hire  
27    a subcontractor, or obtain or contract for the services of an  
28    independent contractor, that is not registered under P.L.2004, c.16  
29    (C.56:8-136 et seq.), unless the subcontractor or independent  
30    contractor is exempt from the registration requirements of that act.

31    A contractor who violates any provision of P.L.2004, c.16  
32    (C.56:8-136 et seq.) shall be liable for restitution to a consumer  
33    who is damaged or suffers any monetary loss as a result of such  
34    violation.

35    b. In addition to any other penalty provided by law, a **【person】**  
36    contractor who knowingly violates any of the provisions of this act  
37    is guilty of a crime of the fourth degree.

38    (cf: P.L.2004, c.16, s.11)

39  
40    7. Section 12 of P.L.2004, c.16 (C.56:8-147) is amended to  
41    read as follows:

42    12. a. This act shall supersede any municipal ordinance or  
43    regulation that provides for the licensing or registration of home  
44    improvement contractors or for the protection of homeowners by  
45    bonds or warranties required to be provided by home improvement

1 contractors, exclusive of those required by water, sewer, utility, or  
2 land use ordinances or regulations.

3 b. No municipality shall issue a construction permit for any  
4 home improvement if any part of the home improvement is to be  
5 performed by any contractor who is required to but is not registered  
6 pursuant to the provisions of this act.

7 c. A municipality may issue a construction permit for a home  
8 improvement only to:

9 (1) a contractor who is performing the home improvement and  
10 who is registered under P.L.2004, c.16 (C.56:8-136 et seq.);

11 (2) a person who is performing the home improvement and is  
12 not required to be registered under P.L.2004, c.16 (C.56:8-  
13 136 et seq.); or

14 (3) the owner of the property, provided that the person who is  
15 performing the home improvement is the owner of the property or is  
16 eligible to obtain a construction permit pursuant to paragraph (1) or  
17 (2) of this subsection.

18 d. It is an unlawful practice and a violation of P.L.1960, c.39  
19 (C.56:8-1 et seq.) to induce a consumer to obtain a permit for work  
20 to be performed by an unregistered person who is required to be  
21 registered under P.L.2004, c.16 (C.56:8-136 et seq.).

22 e. A contractor shall be liable for any fines or penalties  
23 imposed in connection with a home improvement that the contractor  
24 is making as a result of any failure to obtain necessary construction  
25 permits.

26 f. A contractor shall notify the municipal construction officer,  
27 tax assessor, or other appropriate official in writing of the  
28 completion of home improvement work for which a construction  
29 permit was required to be issued within 30 days of completion of  
30 the work.

31 (cf: P.L.2004, c.16, s.12)

32  
33 8. Section 16 of P.L.2004, c.16 (C.56:8-151) is amended to  
34 read as follows:

35 16. a. **【On or after December 31, 2005, every】** Every home  
36 improvement contract for a purchase price in excess of \$500, and  
37 all changes in the terms and conditions of the contract, shall be in  
38 writing. The contract shall be signed by all parties thereto and shall  
39 not contain any blank spaces for information including, but not  
40 limited to, terms and conditions, to be added after the contract is  
41 signed by the consumer, and shall clearly and accurately set forth in  
42 legible form and in understandable language all terms and  
43 conditions of the contract, including but not limited to:

44 (1) The legal name, business address, street address and, if  
45 different, mailing address, and registration number of the  
46 contractor;

1 (2) **【A】** If applicable, a copy of the certificate of commercial  
2 general liability insurance required of a contractor pursuant to  
3 section 7 of this act and the telephone number of the insurance  
4 company issuing the certificate; **【and】**

5 (3) If applicable, a copy of the certificate of surety bond issued  
6 by the surety in favor of the State of New Jersey under section 7 of  
7 P.L.2004, c.16 (C.56:8-142) and the street address and, if different,  
8 the mailing address of the surety at which a claim may be filed, and  
9 the telephone number of the surety; and

10 (4) The total price or other consideration to be paid by the  
11 owner, including the finance charges, and any fees for permits  
12 necessary to complete the home improvements.

13 b. **【On or after December 31, 2005, a home improvement**  
14 **contract may be cancelled by a consumer for any reason at any time**  
15 **before midnight of the third business day after the consumer**  
16 **receives a copy of it. In order to cancel a contract the consumer**  
17 **shall notify the contractor of the cancellation in writing, by**  
18 **registered or certified mail, return receipt requested, or by personal**  
19 **delivery, to the address specified in the contract. All moneys paid**  
20 **pursuant to the cancelled contract shall be fully refunded within 30**  
21 **days of receipt of the notice of cancellation. If the consumer has**  
22 **executed any credit or loan agreement through the contractor to pay**  
23 **all or part of the contract, the agreement or note shall be cancelled**  
24 **without penalty to the consumer and written notice of that**  
25 **cancellation shall be mailed to the consumer within 30 days of**  
26 **receipt of the notice of cancellation. The contract shall contain a**  
27 **conspicuous notice printed in at least 10-point bold-faced type as**  
28 **follows:**

29 "NOTICE TO CONSUMER

30 YOU MAY CANCEL THIS CONTRACT AT ANY TIME  
31 BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER  
32 RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO  
33 CANCEL THIS CONTRACT, YOU MUST EITHER:

34 1. SEND A SIGNED AND DATED WRITTEN NOTICE OF  
35 CANCELLATION BY REGISTERED OR CERTIFIED MAIL,  
36 RETURN RECEIPT REQUESTED; OR

37 2. PERSONALLY DELIVER A SIGNED AND DATED  
38 WRITTEN NOTICE OF CANCELLATION TO:

39 (Name of Contractor)

40 (Address of Contractor)

41 (Phone Number of Contractor)

42 If you cancel this contract within the three-day period, you are  
43 entitled to a full refund of your money. Refunds must be made  
44 within 30 days of the contractor's receipt of the cancellation  
45 notice." **】**

- 1     The contract shall include the following notice in 10-point bold  
2     type or larger, directly above the space provided for the signature of  
3     the consumer:
- 4     "NOTICE TO CONSUMER  
5     Do not sign this contract if any of the spaces for information have  
6     been left blank. You are entitled to a copy of the contract at the time  
7     you sign. Keep it to protect your legal rights.  
8     Do not sign any completion certificate or agreement stating that you  
9     are satisfied with the entire project before this project is complete.  
10    Home improvement contractors are prohibited by law from  
11    requesting or accepting a certificate of completion signed by the  
12    consumer prior to the actual completion of the work to be  
13    performed under the home improvement contract."
- 14    c. Any home improvement contract may be rescinded by the  
15    consumer, except as provided in subsection j. of this section, if the  
16    consumer:
- 17    (1) Furnishes to the contractor a notice of intent to rescind the  
18    home improvement contract by certified mail, return receipt  
19    requested, postmarked not later than 5:00 PM of the third business  
20    day following the day on which the home improvement contract is  
21    executed; and
- 22    (2) Gives up possession of any goods subject to such home  
23    improvement contract delivered to the consumer prior to receipt by  
24    the contractor of such notice of intent to rescind.
- 25    d. Within 10 business days after receipt of such notice of intent  
26    to rescind the home improvement contract, a contractor shall:
- 27    (1) Pick up, at his own expense, any goods subject to such  
28    contract delivered to the consumer prior to receipt by the contractor  
29    of such notice;
- 30    (2) Refund to the consumer all amounts of money paid by the  
31    consumer, less reasonable charges for any damages to such goods  
32    which occurred while in the possession of the consumer; and
- 33    (3) Redeliver to the consumer any goods traded-in to the  
34    contractor on account or of in contemplation of the home  
35    improvement contract, less any reasonable charges actually incurred  
36    in making the goods ready for sale.
- 37    e. Each home improvement contractor shall maintain a record  
38    of the receipt of any consumer's notice of intent to rescind a sale  
39    under P.L.2004, c.16 (C.56:8-136 et seq.) for at least 24 months  
40    after the current registration period for that contractor expires.
- 41    f. At the time of executing every home improvement contract  
42    subject to the provisions of P.L.2004, c.16 (C.56:8-136 et seq.), the  
43    contractor shall deliver to the consumer two copies of a receipt  
44    which clearly and conspicuously set forth:
- 45    (1) The home improvement contractor's name, street address or  
46    its place of business, and registration number;
- 47    (2) A description of the goods and services sold; and

1     (3) The amount of money paid by the consumer or the cash  
2     value of any goods delivered to the contractor at the time the home  
3     improvement contract was entered into.

4     g. The receipt required to be delivered to the consumer shall  
5     also clearly and conspicuously bear, in at least 10-point bold type,  
6     the following statement:

7     "NOTICE TO CONSUMER: YOU MAY RESCIND THIS SALE  
8     PROVIDED THAT YOU NOTIFY THE HOME IMPROVEMENT  
9     CONTRACTOR OF YOUR INTENT TO DO SO BY CERTIFIED  
10    MAIL, RETURN RECEIPT REQUESTED, POSTMARKED NOT  
11    LATER THAN 5:00 PM OF THE THIRD BUSINESS DAY  
12    FOLLOWING THE SALE. FAILURE TO EXERCISE THIS  
13    OPTION, HOWEVER, WILL NOT INTERFERE WITH ANY  
14    OTHER REMEDIES AGAINST THE HOME IMPROVEMENT  
15    CONTRACTOR YOU MAY POSSESS. IF YOU WISH YOU  
16    MAY USE THIS PAGE AS NOTIFICATION BY WRITING "I  
17    HEREBY RESCIND" AND ADDING YOUR NAME AND  
18    ADDRESS. A DUPLICATE OF THIS RECEIPT IS PROVIDED  
19    BY THE HOME IMPROVEMENT CONTRACTOR FOR YOUR  
20    RECORDS."

21    h. Except as provided in subsection j. of this section, no receipt  
22    required to be delivered to the consumer shall contain, or be  
23    accompanied by any document which contains provisions by which  
24    the consumer waives his rights under this act.

25    i. A contractor who in the ordinary course of business  
26    regularly uses a language other than English in any advertising or  
27    other solicitation of consumers, or in any printed forms for use by  
28    consumers, or in any face-to-face negotiations with consumers shall  
29    deliver the two copies of the receipt to a consumer whose principal  
30    language is such other language, one in English and one in the other  
31    language.

32    j. A home improvement contract for home improvement work  
33    needed by the consumer to meet a bona fide emergency, where the  
34    contract with the contractor was initiated by the consumer, shall not  
35    be subject to the cancellation provisions of subsection d. of this  
36    section, if the consumer furnishes the contractor with a statement  
37    separate from the contract, in a form approved by the division,  
38    dated and signed by the consumer, describing the situation requiring  
39    immediate remedy and expressly acknowledging and waiving the  
40    right to cancel the contract within three business days.

41    (cf: P.L.2004, c.155, s.4)

42  
43    9. (New section) a. There is established in the General Fund a  
44    non-lapsing fund to be known as the "Home Improvement  
45    Consumer Protection Fund" which shall be administered by the  
46    State Treasurer. The State Treasurer shall deposit into the "Home  
47    Improvement Consumer Protection Fund" all fees and penalties

1 collected by the director pursuant to P.L.2004, c.16 (C.56:8-  
2 136 et seq.).

3 b. The Legislature shall annually appropriate monies from the  
4 fund to the division for the payment of the division's expenses  
5 incurred in administering and enforcing the "Contractors'  
6 Registration Act," P.L.2004, c.16 (C.56:8-136 et seq.).  
7

8 10. This act shall take effect 120 days after enactment, but the  
9 Division of Consumer Affairs may take such anticipatory acts in  
10 advance of that date as may be necessary for the timely  
11 implementation of this act upon its effective date.  
12  
13

#### 14 STATEMENT

15  
16 This bill revises the "Contractors' Registration Act," P.L.2004,  
17 c.16 (C.56:8-136 et seq.) ("the act"), to strengthen the protections  
18 afforded New Jersey consumers who engage the services of home  
19 improvement contractors.

20 The bill requires an applicant for registration to disclose any  
21 person connected to a home improvement business who has a  
22 substantial interest in the entity or any parent, subsidiary, or  
23 affiliate of the entity. As defined in the bill, "substantial interest"  
24 means an interest as director, officer or partner or an economic  
25 interest of 10 percent or more in a home improvement contractor or  
26 any parent, subsidiary, or affiliate thereof.

27 The bill helps facilitate consumer restitution when a home  
28 improvement contractor provides substandard work or engages in  
29 misconduct. The bill clarifies the commercial general liability  
30 insurance provisions of the act. Under the bill, contractors would  
31 be required to maintain a surety bond in the amount of \$25,000, or  
32 such other amount as the director may determine by regulation.

33 The bill makes it a violation of the consumer fraud act for a  
34 contractor to fail to complete a home improvement in accordance  
35 with the contract, or for an exempt contractor to hire an  
36 unregistered contractor. The bill makes a contractor who violates  
37 the act liable for restitution to consumers.

38 The bill provides that a person who performs home improvement  
39 work without compensation is not required to register under the act.  
40 Under current law, an individual who performs home improvement  
41 contracting for a family member or non-profit entity is not required  
42 to register. This bill provides an exemption for work done without  
43 compensation, instead of providing an exemption for family  
44 members or non-profit entities.

45 The bill limits the scope of the act to residential property and  
46 eliminates non-commercial property from the scope of the act.  
47 Additionally, the bill eliminates from the scope of the act contracts

1 between contractors and owners for converting existing commercial  
2 structures into residential property.

3 The bill provides for biennial registration instead of the annual  
4 registration provided for in current law, in order to ease  
5 administrative burdens on contractors and the division and to allow  
6 for a more efficient registration process.

7 Under the bill, contractors who perform only small home  
8 improvements of less than \$500 in aggregate cost are subject only  
9 to the registration and insurance requirements and not the bonding  
10 requirements. These contractors pose a small risk for consumers  
11 due to the small projects they perform, and eliminating the bond  
12 requirement will allow them to avoid unnecessary expenses, which  
13 are ultimately passed along to consumers. Additionally, the bill  
14 exempts full-time students who perform home improvement work  
15 between semesters, which falls below a certain dollar threshold.

16 Under the bill, any person who is exempt from the act or parts of  
17 the act is required to disclose in the home improvement contract the  
18 requirements of the act from which the person is exempt. The bill  
19 also clarifies the enumerated classes of persons and situations in  
20 which certain contractors are exempt from the registration,  
21 insurance, and bonding requirements of the act.

22 The bill requires contractors to designate responsible supervisors  
23 to be responsible for employees performing work at job sites.  
24 Under current law, only owners, officers, and directors of home  
25 improvement contracting businesses must disclose convictions for  
26 disqualifying crimes, but, in many cases, it is an employee who is  
27 working in the consumer's home. While it may not be practical or  
28 fair to require background checks on every employee, the bill  
29 requires responsible supervisors to disclose any disqualifying  
30 crimes and to be in charge of the business's job sites. The bill also  
31 expands the list of disqualifying crimes to include crimes against  
32 children.

33 The bill also revises the act to:

- 34 • align the due process provisions of the act to require the  
35 director to afford "an opportunity to be heard" before  
36 refusing to issue or revoking a registration;
- 37 • clarify certain disqualifying conditions;
- 38 • prevent an unregistered person who is required to register  
39 from inducing a home owner into obtaining a permit for work  
40 to be performed by the unregistered person;
- 41 • align the three-day cooling off period provided in the act with  
42 the "Door-to-Door Home Repair Sales Act of 1968," and  
43 provides an exception to the three-day cancellation  
44 provisions for a bona fide emergency; and



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17

- 1       • create a non-lapsing fund in the Department of the Treasury
- 2       for the deposit of fees and penalties, consistent with the
- 3       change to biennial registration.